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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/529,587	04/14/2000	JOHN A. DANE	EPRNT-101XX	2045

7590 07/14/2006

Patent Legal Staff  
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EXAMINER

TODD, GREGORY G

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/529,587

Applicant(s)

DANE ET AL.

Examiner

Gregory G. Todd

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3-5, 7, 8, 10, 11, 14-20, 23-25, 27, 28 and 30-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-5, 7, 8, 10, 11, 14-20, 23-25, 27, 28 and 30-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. This office action is in response to applicant's appeal brief filed 25 April 2005, of application filed, with the above serial number, on 14 April 2000. Claims 3-5, 7-8, 10-11, 14-20, 23-25, 27-28 and 30-34 are therefore pending in the application.

In view of the appeal brief filed on 25 April 2005, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 3-5, 7-8, 10, 14-20, and 23-25, 27-28, and 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franklin et al (hereinafter "Franklin", 6,125,352) in view of Kinjo (hereinafter "Kinjo", 6,590,671).

As per Claims 32-34, Franklin teaches a computer method for storing and saving electronic photographic images, wherein Franklin teaches:

providing access to a server having picture memory adapted to store said electronic photographic images obtained by a photographer at an event, an ordering interface and a communication link for allowing communication over a public network (at least col. 4, lines 15-43; col. 10, lines 17-28);

said server adapted to transact remote payment information with respect to a financial institution for verifying payment of an order placed by said customers of said photographer through said ordering interface (at least col. 15, lines 12-28; col. 8, lines 39-57; commerce server with user browser); and

wherein said ordering interface is operable to be remotely accessed by said customer of said photographer over said public network using a browser for the purpose of ordering an image product with respect to said stored electronic photographic images (at least col. 15, lines 12-28; col. 8, lines 39-57; commerce server with user browser for purchasing items).

Franklin fails to explicitly teach said server providing access to said electronic photographic images stored in said picture memory by said photographer and customers of said photographer, said ordering interface further providing access to an image profiler only by said photographer and/or host of said event adapted to sequence

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and caption said stored electronic photographic images for display to said customers of said photographer. However, the use and advantages for using such a system is well known to one skilled in the art at the time the invention was made as evidenced by the teachings of Kinjo. Kinjo generally teaches a system for purchasing pictures online from a photofinisher (at least col. 4 line 36 – col. 5 line 43). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Kinjo into Franklin's system as this would allow customers to purchase the actual picture of the picture that is used in Franklin; in other words, Franklin, in the example he used, teaches buying a refrigerator (at least col. 8 line 58 – col. 9 line 14), such refrigerator accompanied by a picture of the refrigerator, as well as product info and SKU, price, etc (at least col. 15, lines 13-24), and thus it is conceivable that a user, in addition to purchasing a refrigerator, could purchase a picture, said picture being accompanied by a picture of the picture (to know what you are buying), as well as product info and SKU, price, etc. Thus, as Kinjo teaches it being desirable to purchase digital photos online as it is not convenient to go to a brick and mortar store (at least col. 1, lines 17-41), and Franklin teaches using e-commerce to buy anything, it would have been obvious for a customer to purchase photographs online.

As per Claims 3 and 23.

wherein said ordering interface access providing step further comprises providing access to a customer order selector adapted to enumerate and quantify a subset of said electronic photographic images to be produced as said hardcopy renditions (at least Kinjo, col. 4, lines 43-53; # of prints).

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As per Claims 4 and 24.

wherein said ordering interface access providing step further comprises providing access to a customer proofbook adapted to store a subset of said electronic photographic images, wherein said customer proofbook persists between said remote accesses by said customer (at least Kinjo col. 5, lines 15-25; database associated with user).

As per Claims 5 and 25.

wherein said payment verifier access providing step enables transmitting payment corresponding to production of said hardcopy renditions in response to notification from said financial institution (at least Franklin col. 27 line 41 - col. 28 line 21).

As per Claims 7 and 27.

wherein said image loader access providing step enables receiving said electronic photographic images from a non-volatile digital media (at least Kinjo col. 5, lines 53-61; col. 1, lines 31-41; eg, digital camera).

As per Claims 8 and 28.

wherein said non-volatile digital media is selected from the group consisting of magnetic and optical formats (at least Kinjo col. 5, lines 53-61; col. 1, lines 31-41).

As per Claim 14.

wherein said displaying is in response to interactive selecting by said customer through said publicly accessible network (at least Franklin col. 8, lines 38-67).

As per Claim 15.

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arranging said electronic photographic images according to an event and said displaying said electronic photographic images occurs selectively according to said event (at least Kinjo col. 5, lines 15-25; eg. user ID with number code).

As per Claim 30.

further including the step of providing access to stored images for allowing image editing (at least Kinjo col. 4 line 61 – col. 5 line 2; col. 7, lines 16-59; image processing).

As per Claim 31.

wherein said editing step includes one or more of the steps of categorizing, sorting and titling (at least Kinjo col. 4 line 61 – col. 5 line 2; col. 7, lines 16-59; eg. associating with particular order).

As per Claim 10.

wherein said translating comprises scanning a visual image into a digital storage format (at least Kinjo col. 3, lines 10-67).

As per Claim 11.

Wherein said fixing comprises using a digital camera to store said visual images therein (at least Kinjo col. 1, lines 31-41).

As per Claims 16 and 19.

wherein said displaying is followed by the step of electing a quantitative and qualitative assertion for at least one of said electronic photographic images (at least Kinjo col. 4, lines 35-67).

As per Claim 17.

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wherein said electing further comprises storing at least one of said electronic photographic images in an electronic proofbook (at least Kinjo col. 5, lines 15-25; database associated with user).

As per Claim 18.

wherein said electronic proofbook is accessible only by said customer (at least Kinjo col. 5, lines 3-24; eg. user ID account).

As per Claim 20.

wherein said storing is preceded by the step of remotely altering/editing said electronic photographic images (at least Kinjo col. 4 line 61 – col. 5 line 2; col. 7, lines 16-59).

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 3-5, 7-8, 10-11, 14-20, 23-25, 27-28 and 30-34 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Previously cited Ogawa et al, Chalstrom et al, Fredlund et al, Dellert et al, Sheridan, Shiota et al, Enomoto et al, Martin et al (payment server), Moghadam et al (networking photos), Brindle et al (photo description), Yien et al (networked image editing), Loeb (multimedia, photo delivery mechanisms), Woods (Kodak abstract for system claimed dated August '97), DaleLabs (digital film



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developing), Oldroyd Digital (digital film printing and editing), and WebPhotos (a very identical system to that claimed) are cited for disclosing pertinent information related to the claimed invention. Applicants are requested to consider the prior art reference for relevant teachings when responding to this office action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory G. Todd whose telephone number is (571)272-4011. The examiner can normally be reached on Monday - Friday 9:00am-6:00pm w/ first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571)272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

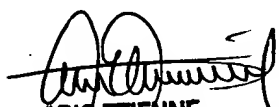
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Gregory Todd



Patent Examiner

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